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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11
	:	
SEARS HOLDINGS CORPORATION,	:	Case No. 18-23538 (RDD)
<i>et al.,</i>	:	
	:	(Jointly Administered)
Debtors.	:	

**LIMITED OBJECTION OF CROSSCOM NATIONAL LLC
TO NOTICE OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH
GLOBAL SALE TRANSACTION**

CrossCom National LLC (“**CrossCom**”), respectfully submits this limited objection (the “**Objection**”) to the assumption and assignment of the contracts listed at lines 1882, 1883 and 1884 of the Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction (Docket No. 1731) (the “**Cure Notice**”) as: “IT CrossCom National, LLC SOW WAN May 1, 2012,” (“**SOW 1**”); IT CrossCom-National, Inc.- MSA-10-1-2004 And Amendment 1, Amend 2 and Amend 3” (the “**MSA**”) and “Member Tech-Crosscom-SOW 2- Store HW Maint. Pilot – Sept. 2016 (“**SOW 2**” and, together with SOW 1 and the MSA, the “**Agreements**”). In support of its Objection, CrossCom states as follows:

1. On October 15, 2018 (the “**Petition Date**”), Sears Holding Corporation (“**Sears**”) and related debtors (collectively, the “**Debtors**”) filed voluntary petitions for relief under chapter

11 of title 11 of the United States Code (11 U.S.C. §§ 101, *et seq.*, hereafter, the “**Bankruptcy Code**”).

2. Prior to the Petition Date, CrossCom was party to certain IT-related maintenance and service agreements with the Debtors, including the Agreements.

3. In the Cure Notice, the Debtors have listed the Agreements among the contracts that may be assumed in connection with the sale of their assets, but only list a cure amount of \$222,256 relating to SOW 1. The Debtors list no proposed cure amount for SOW 2 or the MSA.

4. Although the Debtors list the Agreements as three separate executory contracts (and state a proposed cure amount solely with respect to SOW 1), neither SOW 1 nor SOW 2 constitutes an independent, stand-alone contract. Each SOW, by its terms, is part of an integrated contract with the MSA. To that end, SOW 2 states “This SOW is incorporated as part of, and is governed by the terms and conditions of that certain Master Services Agreement dated October 1, 2004, between Contractor and Company.” SOW 1 contains similar language. Consequently, neither SOW 1 nor SOW 2 may be assumed without assumption of the MSA and, in connection therewith, the payment of the Cure Amount (as defined below).¹

5. CrossCom does not contest the Debtors’ right to assume and assign the Agreements. However, if the Agreements are going to be assumed, the cure amount proposed by the Debtors is insufficient to cure the defaults as required under section 365(b)(1)(A) of the Bankruptcy Code. CrossCom objects to the assumption and assignment of the Agreements in the absence of payment of all amounts owed under the Agreements.

¹ While the MSA is part of an integrated contract with SOW 1 and SOW 2, the Debtors could elect not to assume either SOW 1 or SOW 2 and still assume the other. If the Debtors were to assume solely the MSA and SOW 1, the Cure Amount would be reduced by \$45,172.12.

6. The cure amount listed for SOW 1 is insufficient to cure the Debtors' defaults under the Agreements. Specifically, the Debtors have failed to pay pre-petition charges for services and materials provided pursuant to the terms of the Agreements in the total amount of \$359,217.57 (the "**Cure Amount**").² A list of the invoices comprising the Cure Amount is attached hereto as Exhibit A.

7. CrossCom reserves the right to amend this Objection to the extent it determines that any additional amounts are due under the Agreements.

WHEREFORE, CrossCom National LLC respectfully requests that this Court enter an order: (i) finding that, under the Agreements, the Debtors' cure obligation pursuant to section 365(b)(1)(A) of the Bankruptcy Code is at least \$359,217.57; (ii) conditioning the Debtors' assumption of the Agreements upon the payment of all amounts due under section 365(b)(1)(A) of the Bankruptcy Code; and (iii) granting such further relief as this Court deems just.

Dated: January 28, 2019

Respectfully submitted,

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² In addition, the Debtors have not yet paid invoices for postpetition services under the Agreements totaling \$86,226.20. These amounts have not been included based on the Debtors' representation that postpetition invoices will be paid in the ordinary course. Nevertheless, to the extent that the Debtors lack the willingness or ability to pay these amounts in the ordinary course, CrossCom asserts that they must be paid as part of the Debtors' cure obligations under section 365 of the Bankruptcy Code.

CERTIFICATE OF SERVICE

I, Joseph D. Frank, an attorney, hereby certify that on January 28, 2019 the **Limited Objection of CrossCom National LLC To Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction** was filed electronically. Notice of the filing will be sent to all parties who are currently on the Court's Electronic Mail Notice List by operation of the Court's Electronic Filing System. A copy of the filing also was mailed to the Notice Parties listed below via email or First Class U.S. Mail, properly addressed and postage paid as indicated.

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